



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, FEBRUARY 22, 2007
WWW.USDOJ.GOV

AT
(202) 514-2007
TDD (202) 514-1888

TWO PENNSYLVANIA EXECUTIVES AGREE TO PLEAD GUILTY TO BID RIGGING ON CONTRACT WITH THE U.S. NAVY

WASHINGTON — Two executives of a Pennsylvania company have agreed to plead guilty, pay a fine, and serve jail time for participating in a conspiracy to rig bids on U.S. Navy contracts for metal sling hoist assemblies, the Department of Justice announced today.

Thomas Cunningham, vice president, and Richard Barko, general manager, of Total Industrial & Packaging Inc., located in McKees Rocks, Penn., pleaded guilty today in U.S. District Court in Islip, N.Y. They agreed to pay a criminal fine of \$10,000 each and to serve up to six months in jail for their participation in a conspiracy to rig bids for Department of Defense (DOD) contracts for metal sling hoist assemblies, which are used to transport bombs and other munitions. Between August 2003 and January 2004, the conspirators submitted non-competitive bids to the U.S. Navy and discussed and agreed among themselves who of them would win contracts from the DOD.

Under the plea agreement, which is subject to court approval, Cunningham and Barko have agreed to cooperate with the Department of Justice's ongoing investigation.

"Today's charges demonstrate the Antitrust Division's resolve to hold accountable individuals who engage in anticompetitive practices," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "We will continue to seek out and prosecute those who subvert the competitive bidding process through bid rigging and allocation schemes."

Cunningham and Barko are charged with carrying out the bid-rigging conspiracy by:

- Attending meetings and engaging in discussions regarding the sale of metal sling hoist assemblies to the U.S. Navy;
- Agreeing during those meetings and discussions not to compete on certain contracts with the U.S. Navy either by not submitting prices or bids, by alternating winning bids, or by submitting intentionally high prices or bids;
- Discussing and exchanging prices on certain contracts so as not to undercut each other's prices;
- Submitting bids in accordance with the agreements reached;

- Selling metal sling hoist assemblies to the U.S. Navy at collusive and non-competitive prices; and
- Accepting payment for metal sling hoist assemblies sold at the collusive and non-competitive prices.

Cunningham and Barko are charged with bid rigging in violation of the Sherman Act, 15 U.S.C. § 1, which carries a maximum sentence of 10 years of imprisonment and a fine of \$1 million for individuals and \$100 million for corporations. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime if either of those amounts is greater than the statutory maximum fine.

Today's charges are the result of an ongoing investigation being conducted by the Antitrust Division's National Criminal Enforcement Section with the assistance of the DOD's Defense Criminal Investigative Service.

The National Procurement Fraud Initiative announced in October 2006 is designed to promote the early detection, identification, prevention and prosecution of procurement fraud associated with the increase in contracting activity for national security and other government programs. As part of this initiative, the Deputy Attorney General has created the National Procurement Fraud Task Force.

Anyone with information concerning bid rigging or other anti-competitive conduct regarding marine fenders or related products is urged to call the National Criminal Enforcement Section of the Antitrust Division at 202-307-6694 or the Long Island Office of the Defense Criminal Investigative Service at 631- 420-4302.

###